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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,349	07/18/2003	Frederick John Rice	35332.12.1	4817
7590	08/14/2006		EXAMINER	
James R. Haller Fredrikson & Byron, P.A. 4000 Pillsbury Center 200 South Sixth Street Minneapolis, MN 55402-1425			KIM, CHRISTOPHER S	
			ART UNIT	PAPER NUMBER
			3752	
DATE MAILED: 08/14/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/622,349	RICE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christopher S. Kim	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 May 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 47-52 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 47-52 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/10/06</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The response filed May 22, 2006 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 112***

3. Claim 51 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 51 recites "the arm of the L-shaped member has a length comparable to a diameter of the body of the retaining means such that..." The disclosure, as originally filed, does not appear to teach the newly recited limitation.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 47, 49, 51 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 47, the preamble recites the subcombination of a "soap dispenser" but the body of the claim recites structural relationship between the soap

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dispenser shank and arm remaining stationary relative to the tap at all time. It is uncertain whether applicant is claiming the subcombination of a soap dispenser or the combination of a soap dispenser and a water tap.

Claims 51 and 52 also recite structural relationship of the dispenser and the water tap.

***Claim Rejections - 35 USC § 103***

6. Claims 47, 48, 51 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Migliozi (4,081,139).

Migliozi discloses a soap dispenser comprising: a retaining means comprising a body 50; attaching means comprising an L-shaped member having an arm 28, 32 (the arm having a clamp 18) and a shank 20; a pivotal member 38, 40, 42, 44, 46 (the portion of spokes 38, 40, 42, 44, 46 radially inward of basket 50); an external projection 38, 40, 42, 44, 46, 36 (the portion of spokes 38, 40, 42, 44, 46 radially outward of basket 50 and rim 36).

Migliozi differs from what is being claimed in that Migliozi's device pivots about a bearing member 22 which is nothing more than the doubling over of stock material from which the mounting bracket 16 is fabricated (see column 2, lines 44-53).

Migliozi's pivotal members/spokes 38, 40, 42, 44, 46 are also simply wrapped around shank/shaft 20. Making the shank/shaft 20 integral with bracket 16 and allowing the pivot to occur where pivotal members/spokes 38, 40, 42, 44, 46 are wrapped around shank/shaft 20 is well within ordinary skill in the art. It would have been obvious to

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a person having ordinary skill in the art at the time of the invention to have made the shank/shaft 20 integral with bracket 16 and located the pivot to occur where pivotal members/spokes 38, 40, 42, 44, 46 are wrapped around shank/shaft 20 in the device of Migliozi to allow ease in turning rim 36. Turning rim 36 provides added torque resulting in ease in turning rim 36.

7. Claims 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Migliozi (4,081,139) in view of Bishop (855,428).

This rejection is provided in anticipation of applicant's argument that it is not a fair reading of Migliozi to separate the spokes 38, 40, 42, 44, 46 into radially inward and outward portions relative to basket 50 to define a pivotal member and an external projection, respectively. If so, it can be argued that Migliozi's body lacks an external projection mounted to and extending outwardly of the body. Bishop shows, in figure 1, an external projection on body 5. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the external projection of Bishop to the basket of Migliozi to provide a gripping surface so that the basket can be easily manipulated.

8. Claims 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Migliozi (4,081,139) in view of Moss (2,647,797).

Migliozi discloses the limitations of the claimed invention with the exception of the cylindrical soap and the body having a post. Moss discloses a cylindrical soap 35 and body 21 having a post 28. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have replaced the body 50 of Migliozi with

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the body of Moss to dispense scented substance, a water softener, or a medicated substance (Moss, col. 1, lines 3-10).

9. Claims 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Migliozzi (4,081,139) in view of Bishop (855,428) as applied to claims 47 and 48 above, and further in view of Moss (2,647,797).

Migliozzi in view of Bishop discloses the limitations of the claimed invention with the exception of the cylindrical soap and the body having a post. Moss discloses a cylindrical soap 35 and body 21 having a post 28. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a post to the body 50 of Migliozzi as taught by Moss to dispense scented substance, a water softener, or a medicated substance (Moss, col. 1, lines 3-10).

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 47-52 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Christopher S. Kim

Primary Examiner

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CK